GOVERNMENT OF MADRAS.

Scott. H-28—55,000 -27-10-52

Health (195 ) Department.

~~Endorsement~~
~~D.O.~~
~~Memorandum~~
~~Lodged~~

No. 40319/51-13 T

Dated 17-1-1953

Closed

FURTHER PAPERS.

| Department. | Number. | Series. | Date. |
|---|---|---|---|
| licences – Dangerous and offensive trades – licensing premises used for storing arecanuts – applications – Sections 193 of the MLB Act and Schedule VII of the Act – | | | |

9

1

MEMORANDUM

TO

THE SECRETARY TO GOVERNMENT OF MADRAS,

Revenue Department, MADRAS

BY

THE SOUTH KANARA AND COORG ARECA GROWERS' UNION,

MANGALORE.

Sir,

The South Kanara District Board has this year started issuing notices to areca growers requiring them to take out licences for storing their agricultural produce before marketing. The power to levy such licence fees is claimed by the District Board under clause (mm) of schedule VII of the Madras Local Boards Act, 1920. Most of the areca growers have refused to obtain licences and consequently prosecutions have been launched against them. The first case that came before the Court has been discharged by the Stationery Sub Magistrate, Kasaragod, on the ground that under the Act the District Board has no power to levy licence fees from areca growers. Since then, the District Board has been filing complaints in other courts to try the chances.

This Union has made representations to the District Board President regarding the illegality of the levy and the President appears to have referred the matter to the Government of Madras for their views in the matter. But no reply has been received from the Government till now. In this state of affairs a large number of areca growers are being harassed by the launching of prosecutions for not obtaining licences.

Under Clause (mm) of schedule VII of the Madras Local Boards Act, the Board has power to levy fees for storing for wholesale or retail trade grains,

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17a

-4-

chillies, jaggery, cotton, pulses, flour, bran, oil cakes or agricultural produce which is likely to attract rats. Arecanuts are stored before marketing after the nuts are fully dried under the sun for 40 days. The dried nuts are very hard and rats are not attracted by arecanuts. Two conditions are necessary in order to entitle the District Board to levy such fees., The conditions are:

(1) The storing must be for wholesale or retail trade.

(2) The articles stored must be one of those referred to above.

4 The storing of agricultural produce by an agriculturist before marketing is part of agriculture and it is not for wholesale or retail trade. Both the conditions are not applicable to the case ~~in question~~.

Licence fees are levied for services rendered by the District Board. What are the services rendered by the District Board to the areca growers in the matter of storing licence fees ? Nil !

6 If the contention of the District Board is upheld not only areca growers but all other agriculturists including paddy growers, coconut growers would be required to take out licences and no discrimination could be made.

In these circumstances, we request you to direct the District Board, South Kanara not to levy licence fees from areca growers or other agriculturists, and also to withdraw the prosecutions already launched.

Yours faithfully,

President.

S. K. Coorg Areca Growers Association

Camp : Kasaragod

Dated 11-3-1951.

L.Dis.19934/51.

S.K.District Board Office,
Mangalore: Dated 29-8-1951

From

Sri B. Manjayya Hegde, B.A., B.L.,
President, District Board, S.K.

To

The Secretary to Government,
Public Health Department,
Fort St. George, M A D R A S

DEPUTY SECRETARY 3 SEP 1951 HEALTH DEPARTMENT

Sir,

Sub:- LICENSES - Dangerous and offensive trades - Licensing premises used for storing areca nuts - Application - Section 193 of the M.L.B.Act and Schedule VII of the Act.

Ref:- Government endorsement No.40319/51-1-T Health dated 11-8-51

****

In their memorandum addressed to the Government, the South Kanara and Coorg Areca Growers' Union, Mangalore has questioned the legality of the action of this District Board in levying license fee for the use of the premises for storing arecanuts for sale - retail or wholesale.

2. The Union is of opinion that the arecanuts do not attract rats and that the storing of agricultural produce by an agriculturist before marketing is a part of an agricultural operation and therefore is not intended for a wholesale or retail trade and that the Board is not justified in levying any license fees as no services are rendered by the Board to the areca growers.

3. The District Board levied license fees under clause (mm) of Schedule VII of the M.L.B.Act 1920 as amended on the ground that arecanuts are agricultural produce coming within the meaning of Clause (MM) of Schedule VII of the Act and that where certain premises are used for storing the areca nuts for the purpose of selling them such premises are liable to be licensed under the section 193 of the M.L.B.Act as amended. The opinion of the Areca Growers' Union that the areca nuts which are fully dried in the sun for 40 days do not attract rats cannot be accepted easily as this opinion is not based on any authoritative technical opinion. Furthermore, it is possible, that the areca nuts attract rats before they reach a stage which does not attract rats.

4. I have already addressed a letter (copy enclosed) to the Inspector of Local Boards, Madras to let me know whether the growers who store areca nuts in large quantities for the purpose of marketing are liable to be licensed for using premises for such storing and whether the arecanuts can be considered as an agricultural produce attracting rats. I request the Government to give a ruling on these two points raised in the Inspector's letter quoted above so as to enable the Board to decide whether the areca nuts can be considered as an agricultural produce licensable under clause (mm) of Schedule VII of the Act. If the areca nuts, according to the opinion of the Government are not to be considered as an agricultural produce attracting rats the Board will drop the proposal to levy license fees and withdraw prosecutions launched against a few of the areca growers. As a few cases are still pending on the file of mofussil courts, I request the Government to issue a clear ruling on the issue raised at a very early date.

FOR PRESIDENT.

AV/31-8

5 Health (T)

pp 1-2 cf From the South Kanara and Coorg Areca Growers ~~Assn~~ Union, ~~Honnavar~~ Mangalore pn dt 11/8/57.

p 3 cf From the President, Dist B?, S. K., L DIS 19534/57 dated 29.8.57.

~~p 50/2/58~~

Sub: Licence - D to trades - ~~Licensing~~ South Kanara dt. ed. - premises used for storing areca nuts - ~~Application~~ ~~of Section 193 of the H.D. Act.~~

~~D.H.~~ 7/9/57 Memo No 3197/57-2 T Health, ~~dated~~ 7.9.57 dupr. D.H. Cl. and D. Ed.

Referred to the ~~D.P.H.~~ for very urgent remarks in Consultation with the ~~Asst. Director of Health~~ D.P.H. and the Dir. of Agriculture, if necessary

Approved 5/9/57 5.9.57.

To: The ~~D.P.H. Cl. & Lepy~~ Dupr. of Hel 6/9/57

(with cf of 6 pages in ors to be ret'd with reply)

~~Dy (The Asst. Director of Health)~~ D.P.H. " "

6.9.57

6

Health (T)

Sub: Licence – D to trades – South Kanara Dist Bd – Licensing premises used for storing arecanuts-

memo 40 319/51-3 T Health dated 13-10-51

The Insp. of mlds & BOS is requested to expedite his reply to Govt memo no 40 319/51-2 T, Health, dated 7-9-51, relating to the subject mentioned above. The matter should be treated as urgent.

13.10.51

13/10/51

To

The Insp. of mlds & BOS

D. A.

1

W
32/10-(o)LCF Read Govt memo no 40319/57-2-T, Health, d 7.9.57 Health (T)
From the Insp^r of mil dis & LBS Rec no 5 1196/57-F4, d 6.9.52

Sub:- Licence — South Kanara Dist —
storing of areca nuts by agriculturists — licensing of
40319/57-10 T Health dated 10.10.52

Memo no
21(i)
18/10/52

The attention of the Insp^r of mil dis & LBS is invited to the ~~references~~ Govt Memo. cited and he is requested to state when the further report promised in his letter cited may be expected

To.
The Insp^r of
Mil dis & LBS

S. 20.10.52
Sd/-
for Secy to Govt

Sd/-
for Secy to Govt

Sd/-
18/10/52

FROM

SRI.K.G.MENON, I.C.S.,
Inspector of Ml.Cls.&Local Boards.Madras.1.

TO

The Secretary to Government,
Health Department, Madras.

L.Dis.51196-51 dated 31-10-52

Rec'd 51668 HEALTH DEPARTMENT

SUB: License - South Kanara District Board - Storing of arecanuts by agriculturists - licensing of - remarks

REF: Government memo 40319-51-2.T.Health dated 7-9-52 and 10-10-52.

***

I offer below my remarks on the petition dated 11-8-51 of the South Kanara and Coorg Areca growers Union Mangalore, and letter L.Dis. 19934-51 dated 28-8-52 of the President District Board South Kanara.

Storage of agricultural produce by agriculturists before marketing is intended for wholesale trade and not for domestic purpose and it is not exempt from license fees. According to the views of the Director of Public Health and Director of Agriculture, arecanuts when stored do attract rats. Hence storage of arecanuts by agriculturists are licensable under section 193 of the Madras District Boards Act read with clause(mm) of schedule VII thereto. The Bench court Karkal acquitted the accused who failed to take out licences not because that it held that storage of arecanuts was not licensable under the Act, but because the prosecution was not able to prove that the accused had actually stored the arecanuts.

The petition of the South Kanara and Coorg Areca growers Union the letter of the President District Board South Kanara to Government referred to above in the Government memo above cited, together with copies of letters of Director of Public Health and Director of Agriculture and judgment copies in B.C.Nos. 107-51 to 115/51 on the file of the bench court Karkal relating to the prosecution of areca growers are enclosed. The copies of Judgment may be returned to the President District Board South Kanara after done with.

(A)

1-11-52

FOR INSPECTOR.

tpr-1-11-

Copy of letter L.Dis. 88640-1-Hyg-3-51 dated 28-12-51 from the Director of Public Health, Madras to the Inspector of Local Boards. Madras.

SUB: Licence - Dangerous and offensive trades - South Kanara District - storing of areca nuts - licensing of

REF: Your letter Roc. 51196-51-B2 dated 15-11-51

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I am to state that as already stated in this office letter R.No. 68902-7-Hyg-3-51 dated 27-10-51 copy enclosed for ready reference arecanuts is an agricultural produce attracting rats. Therefore, selling wholesale or retail or storing for wholesale or retail trade, arecanuts, is licensable under section 249 of the Madras District Municipalities Act and section 193 of the Madras District Boards Act.

--true copy-

SS 3/11/52

Copy of letter No.L.Dis. 2330-51 dated 21st January 1952 from the Director of Agriculture Madras to the Inspector of local boards Madras.

SUB: LICENCE - South Kanara District Board - storing of arecanuts by Agriculturists - licensing of

REF: Your letters No. 51196-51 dated 15-11-1951, 20-12-1951 and 3-1-1952.

--

I offer the following remarks on the petition dated 11-8-195:

p.t.o.

of the South Kanara and Coorg Areaa Growers Union, Mangalore regarding the legality of the action of the District Board in levying licence fee for the use of the premises for storing Arecanuts for sale retail or wholesale.

i) Unless the storage is for trade purposes, no licence fees can be levied by the District Board. The storage for sale by a grower is not liable to licence. In the Madras Commercial crops markets Act 1933 (Proviso to section 5(3) of the Act) also the storage by grower without a licence is permitted.

ii) The Government entomologist, ~~xxxk~~ Coimbatore has reported that there are different methods of storing arecanuts. The material is stored either raw or cured, temporarily or for longer periods and the raw material with or without the husks. As regards the damage by rats there are records to show that they are responsible for a certain amount of loss of the unripe nuts on the trees. BUT EXPERIMENTAL EVIDENCE REGARDING RODENTS INFESTING THE STORED PRODUCE IS NOT AVAILABLE. But it is likely they might attack the commodity if stored with the husk, as this material may be useful as a bedding for their litter. Even if they do not damage the nuts in any form, it is quite possible, that the store room might attract rats more as a hiding and breeding ground. The Entomoligical section has not so far conducted any special investigations on this aspect and I am therefore unable to furnish a more detailed information on this subject.

2. The petition dated 11-8-1951 of the south Kanara Coorg Areca Growers union, Mangalore sent with your letter No.51196-51-B dated 20-12-1951 is returned herewith.

--true copy--

FOR INSPECTOR.

tpr-1-11

Close 27/1/53. Take action to return judgments on (A) 27/1/53

Health Dept (I)

D(I)(2) 17/1/53 Memo. No. 40319/51-13 J Health 17-1-53

Subj:- Licence — South Kanara Dt. Bd. — Storing of arecanuts by agriculturists. Licensing of — Representation against

6d (9) 21

page 1 of from the President, The South Kanara and Coorg Areca Growers' Union, Mangalore, Memorandum, dated 11.8.1951

page 3 of " P.D.B., South Kanara, L.Dis. 19934/51, dated 29.8.1951

'A' on page 9 of " D.P.H. to the Inspr of Ml Cls & L Bds., L.Dis. 88640-1-Hyg(3)/51 dated 28.12.1951

'B' on pages 9-10 of " Dir. of Agriculture to the " " L.Dis 2330/51 dated 21.1.1952

page 9 of " Inspr. of Ml. Cls & L. Bds., L.Dis. 51196/51, dated 31.10.1952

—to—

para 1 on p. 2 of ___ of CM's minute at 'X' on page 6 of

the South Kanara And Coorg Areca Growers' Union, Mangalore, is informed that the Govt. do not consider it is open to them to give a direction to the South Kanara Dt. Bd. not to levy licence fees from areca growers and to withdraw the prosecutions already launched.

30/31/12/52

SVK 30/12/52

To

(1) The President, South Kanara & Coorg Areca Growers' Union, Mangalore.
(2) The P.D.B., South Kanara
(3) The D.P.H.
(4) The Dir of Agriculture
(5) " Inspr of Ml Cls & Lds.
(6) Copy to the F & A. Deptt.

(2 Spares)

12

Health (T)

Read Govt memo no 40319/51-13-T, Health, dated 17-1-53

Sub: Licence - S. Dt B2 -
Storing of arecanuts by agriculturists -
Licensing of - Return of documents.

Encl - (1) file of judgement (A)

Memo no 41319/51-14T Health 1 29-1-53

In Continuation of the Govt memo cited, Copies of the judgments of the Bench Court Karkal, received with the letter of the Insp. of Mkts & Bdg, L.Dis no 51196/51, dated 31-10-52, are herewith returned to the P.D.B, South Kanara. He is requested to acknowledge their receipt.

28/1/53 28/1/53

29/1/53

To
P.D.B.
S. Kanara
(with (A) in orig)

DC's proceedings
Copy to the Insp of Mkts
Wait for acpt
3/2/53

Ref.C3/8083-51

S.K. District Board Office,
Mangalore, dated 17-2-1953

From

Sri B. Manjayya Hegde, B.A.,B.L.,
President, District Board, S.K.

To

The Secretary to Government,
Health Department,
Fort St. George, MADRAS.

8752

Sir,

ASSISTANT SECRETARY
21 FEB 1953
HEALTH DEPARTMENT

Sub:LICENCE - South Kanara Dt.Board - storing of arecanuts by agriculturists - licensing of - records sent -acknowledged.
Ref:Govt.Memo.No.41319.51-14-T. Health dated 29-1-53.

.....

I acknowledge receipt of the copies of the judgements of the Bench Court, Karkal sent with the memorandum quoted above.

FOR PRESIDENT
District Board, South Kanara

S/18-2

18.2.53

Health (T)

May be filed with (D)

23/2/53

23/2/53

From the South Kanara and Coorg Areca Growers' Union, Mangalore, Memorandum dated 11-8-51.

(Endt. No.40319/51-1-T, Health, dated 11-8-51)

From the P.D.B., South Kanara, L.Dis.19934/51, dated 29-8-51
—[Memo. No: 40319/51-2-T, Health, dated 7.9.1951]

From the D.P.H. to the I.L.B., L.Dis.88640-1-Hyg.3/51, d/28-12-51.

From the Director of Agri. to the I.L.B., L.Dis.2330/51, d/21-1-52.

From the I.L.B., L.Dis.51196/51, dated 31-10-52.

—

Sub: Licence - South Kanara District Board - Storing of arecanuts by agriculturists - Licensing of.

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Please see the petition from the S.K. and Coorg Areca Growers' Union, Mangalore, on pp.1-2 c.f., complaining against the levy by the South Kanara Dt. Board of licence fees for the storing of arecanuts by growers. The Union argues that arecanuts do not attract rats, that the storing of an agricultural produce before marketting is part of an agricultural operation and cannot be taken as storing for wholesale or retail trade and that therefore the storing of arecanuts by agriculturists is not licensable under clause (mm) of Schedule VII to the M.D.B. Act.

2. The petition was referred to the P.D.B., South Kanara. His report is at p.3 c.f. He wants a ruling from the Govt. on the point whether arecanuts is an agricultural produce attracting rats and, hence, coming under clause (mm) of Schddule VII to the M.D.B. Act.

3. The Inspector of Municipal Councils and Local Boards was addressed in the matter and was asked to send his remarks in consultation with the D;P.H. and the Director of Agriculture. The D.P.H. is definitely of the opinion that arecanuts is an agricultural produce attracting rats. But the Director of Agriculture states that experimental evidence regarding rodents

2/

rodents

infesting the stored produce is not available. He however adds that rats might attack the produce if stored with the husk (which will be useful as a bedding for their litter) and that the store-room might attract rats more as a hiding and breeding ground. Hence the Inspector of Ml.Councils and Local Boards states that the Director of Agriculture also has agreed that 'areca nuts' do attract rats, though the D.A. does not seem to be sure about it. For orders whether this view may be agreed to, viz., that areca nuts is an agricultural produce attracting rats. | A

4. The Director of Agriculture has also observed that the storage for sale by a grower is not liable to licence and that under the proviso to section 5 (3) of the Madras Commercial Crops Markets Act, 1933, the storage by a grower without a licence is permitted. But the Inspector states that storage of agricultural produce by agriculturists before marketting is intended for wholesale trade and not for domestic purpose and that it is not exempt from licence fees. The Inspector's view seems to be correct and may be accepted. For orders. | B

5. F. & A. may see for remarks, if any and Legal (Opinion) may be requested to advise whether the views at 'A' and 'B' above ~~taken by this Dept.~~ are correct.

7/11/52

7/11/52

F.A.(F) Dept. / Legal (Opn)

7/11/52

Do A.S

Health Dept.'s note on pp 1-2 above may be perused.

Health No 40319/52-11-T Health 7/11/52

This Dept. may agree with the view at 'A' above.

'B' above :- As pointed out by the D.A. agrees Board's ~~Storage~~ grown by him is exempted from taking a licence under the M.C.C.M. Act.

It is for Health Dept. to consider.

DEPUTY SECRETARY 12805 1939

whether a similar exemption should be given under the M.L.B Act.

In case the Govt. Dept. examined the question whether a person should take out ~~a~~ who has taken a licence under the M.C.C.M. Act should take out a licence under the Madras Local Boards and Madras Mr. Municipalities Acts also. After obtaining the opinion of the Advocate General it was ordered that licencees under the M.C.C.M. Act should also take out licences under the Madras Local Boards Act and the Madras Mr. Municipalities Acts. The case may be passed on to Legal.

13.11.52

Sec'y/Legal (Opinion)

Legal(Opinions-B)Dept.

The question raised at A on page 2 ante cannot be answered easily. Whether arecanut is an agricultural produce attracting rats is itself a matter of controversy. The South Kanara and Coorg Areca Growers' Union is of opinion that arecanuts do not attract rats - please see M on page 2 c.f. - while the P.D.B., the D.P.H. and the D.A. are of the view that they do attract rats - please see paragraph 3 on page 3 c.f. and Q on page 9 c.f. The D.A. has stated that the Entomological section has not so far conducted any special investigations on this aspect of the question. There is the further question whether agriculturists storing their own produce and selling them would come within the scope of Schedule VII of the M.D.B.Act. The whole idea behind the Schedule seems to be to cover commercial and industrial activities rather than to make it obligatory on agriculturists to take out licences for storing their agricultural produce. To hold otherwise would mean that every agriculturist would have to take out a licence and that seems hardly to be the intention of the Act. The subject is clearly

4/ T

one which is debatable and it is not desirable to advise the district board either to drop the proposal to levy licence fees and withdraw prosecutions already launched as indicated at N on page 3 c.f. or to continue to levy licence fees as also the prosecutions against the persons who have not taken out licences. The matter may be left to the discretion of the district board.

SS 4.12.52

B 4.12

J. S

Health

T

Legal ms no 1839/52

4.12.52.

The South Kanara and Coorg Areca Growers union, Mangalore have ~~Complained~~ Complained against the levy by the South Kanara Dt Bd of licence fees for the storing of arecanuts by growers. The contention of the union is that (1) arecanuts do not attract rats and (2) that the storing of an agricultural produce before marketting is part of an agricultural operation and cannot be taken as storing for wholesale or retail trade requiring licence under the M D P Act.

59321 1952

p 2 cf

SS 5/12/52

dist

The matter was examined in Consultation with all officers. The President, Dt Bd, South Kanara, The Director of Agriculture and the D P H are of opinion that ~~arecan~~ arecanuts do attract rats when stored in a place and that the storage is intended for sale and not for domestic use and that therefore a licence should be taken out from the Dt Bd.

p 3 cf

p 3-4 cf

Attention is however invited to the opinion of the Legal Dept at pp 3-4 above. They are of the view that the question whether arecanuts attract rats or not is a debatable one and that whether its storage is licensable, cannot be definitely stated. They have therefore suggested that the matter may be left to the discretion of

46319

the District Board. But it appears better that instead of ~~[illegible]~~ leaving the matter to the Dist Bd, the views of the legal Deptt on the debatable and doubtful nature of the question are communicated to the Dist Bd and the latter advised to drop the licensing of arecanuts.

Put up 4 cases

SK

8/12

May be circulated to M(H) for orders

6/12/52 6/12/52

SK

8/12/52

~~Secy~~

We should leave this alone. We may let the Dt. Bd consult their legal advisers & decide. We should not give an opinion which subsequent events may show is not correct. (Rats eat everything mice eat but move.)

SRKanwar

8.12.52

L.C.
8/12

M(H) Secy 9/12

If the matter there is no harm in communicating his ~~legal~~ opinion of legal in this matter — against the ~~[illegible]~~ licensing.

M(Law) K.P. Krishnan Nair
9-12-52

CM. (on return from tour)

16/12 Health

We may "let things alone" and need not add to the confusion by sending a doubtful opinion or an opinion that there are doubts. Let the licensees be levied until the Appellants effected go to Courts & get a decision in their favour.

We may just refer to the Growers' Union that Government do not censure it is open to them to file. The direction as suggested not to levy the fees referred to

C Rajagopalachari
23.12.52

Incidentally it is interesting to note that the income of the Board depends on rats being alive & data arecanuts! The whole idea of linking income to danger and thus creating a vested interest in danger rather than ~~and~~ or in the opposite of it, is an absurdity. CR. 23/12

T

Health

From page 5 ante

2. Recirculated with the minute of CM.

SRKaiser
24.12.52

M.(H.) 26/12

M.(Law.) K.P.Kaimal
29-12-52

Health dept (T)

Orders in circulation on pages 6-7 above:-

A draft memo. is put up for approval. F.A. may see before issue

30/12/52

SRK
30.12.52

FA

F.A.(F) dept

To A.S

This dept. previously noted on pgs 2-3 above. Further notes from pgs 3-7 above and the draft memo below may be perused. The case may be processed to Health dept.

SRK
11.1.53

Health

Health No.
A 0319/51-12-T
31.12.1952

FA No. 34P/53-1
15/1/53

SS/6/1/53

6.1.53

6/1/53

9

Health (T)

The note on the previous page may be perused. The draft memo below may now issue.

SAS
17/1/53

16-1-53 16/1/53